

Scope of Agent / Intermediary Authority Adjustment

FAQ – Version 2.0

What is the purpose of the amendment adopted by Conference?

The amendment seeks to address an irregular air waybill practice by IATA Cargo Agents (Cargo Intermediaries) commonly known as “Direct Air Waybills.” A Direct Air Waybill occurs when the IATA Cargo Agent (Cargo Intermediary) inserts the name of an entity in the shipper box of an air waybill with whom the carrier has no direct or actual commercial relationship and the Cargo Agent (Cargo Intermediary) is not acting as the agent of carrier (despite including its name in the Issuing Carrier’s Agent box of the face of the air waybill). This practice is inconsistent with the Cargo Agent’s (Cargo Intermediary’s) contractual obligations as set forth in the Cargo Agency Agreement (Cargo Intermediary Agreement).

Does my airline need to do anything?

No. As of the effective date of the Resolution all shipments tendered by a Cargo Agent (Cargo Intermediary) under a Direct Air Waybill treat the Cargo Agent (Cargo Intermediary) as shipper for purposes of shipper indemnities and obligations regardless of the party named in the shipper box. Any Cargo Agent (Cargo Intermediary) seeking to modify this treatment must seek agreement from the Carrier to which the goods are tendered.

Does the amendment eliminate the use of the Direct Air Waybill?

No. The amendment does not eliminate the Direct Air Waybill, however, if the Cargo Agent (Cargo Intermediary) wishes to tender cargo to the carrier under a Direct AWB, it obligates the Cargo Agent (Cargo Intermediary) to contact the Carrier to reach an agreement on the commercial and legal obligations of the Cargo Agent (Cargo Intermediary) prior to the carrier accepting such cargo for carriage. We suspect that this will rarely be the case.

How does the amendment address acceptance of shipments by carriers?

Absent any bilateral agreement, carrier continues to accept and transport such cargo under the commercial terms it has agreed previously with the Cargo Agent (Cargo Intermediary) when it is acting as shipper (i.e. consolidator) and the Cargo Agent (Cargo Intermediary) accepts the same legal and indemnity obligations as the entity identified as the shipper on the air waybill.

What is the expected scope and the key elements of these bilateral agreements?

This will be up to the Cargo Agent and the Carrier; however, parties should consider the following elements:

1. Clarify role of the Cargo Agent – that it will not be acting as the agent of the carrier and that it will be acting as shipper’s agent.
2. What sort of proof of authority to act as shipper’s agent must the Cargo Agent present to the carrier?

3. How much advanced notice does the carrier need to perform the necessary due diligence on the shipper (e.g. sanctions, export controls, insurance, financial standing, other counter-party risk, etc.)
4. Commercial negotiations – will they be directly with the shipper? Or through the Cargo Agent as shipper's agent?

How does this change relate to Resolution 672 ("the e-AWB Agreement")?

Both the adopted changes and Resolution 672 give Direct Air Waybills (or e-Direct Air Waybills under 672) a specific default status, but effectively accomplish the same objective:

- Adopted changes – Carrier will hold forwarder responsible for same shipper indemnity obligations as entity appearing on the DAWB as shipper.
- Reso 672 – Carrier will disregard the entity identified as the "shipper" in the shipment record of the e-DAWB and replace that shipper with forwarder as the contracting party.

In both cases the Carrier will be able to seek recourse against the forwarder if a misdeclaration of dangerous goods results in damage suffered by carrier or a 3d party.

In both cases the Carrier and Forwarder can bilaterally agree to treat "direct air waybills" differently than the default status.

As a freight forwarder, what do I need to do?

As of the effective date of the Resolution all shipments tendered by a Cargo Agent (Cargo Intermediary) under a Direct Air Waybill hold the Cargo Agent (Cargo Intermediary) responsible for the same indemnity obligations they would have when shipping cargo under their own name as shipper. Any Cargo Agent (Cargo Intermediary) seeking to modify this treatment must seek agreement from the Carrier to which the goods are tendered.

Is there anything I need to do as a shipper?

Shippers can continue to ship using DAWBs through their Forwarders as their agent, or they are free to negotiate the ability to ship in their own name with no agent so long as they can present cargo ready for shipment and, in the case of dangerous goods, satisfy the airlines that they have the training and capability to handle such cargos, and the resources to indemnify the carrier for any damages it may incur from those goods.